

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

SECOND REGULAR SESSION  
FIFTY-SEVENTH LEGISLATURE

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SIXTY-NINTH LEGISLATIVE DAY  
SATURDAY, MARCH 20, 2004

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 9:30 a.m.

Roll call showed all members present except Senator Burtenshaw, absent and formally excused by the Chair; and Senators Gannon and Noble, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Alena Shea, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

Senators Gannon and Noble were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 19, 2004, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

March 20, 2004

The JUDICIARY AND RULES Committee reports that **S 1448** and **SJM 111** have been correctly printed.

DARRINGTON, Chairman

**S 1448** and **SJM 111** were referred to the State Affairs Committee.

March 20, 2004

The JUDICIARY AND RULES Committee reports that **S 1269**, as amended, **S 1280**, as amended, **S 1301**, as amended, **S 1313**, as amended, **S 1389**, **S 1393**, as amended, **S 1418**, **SCR 127**, **SCR 128**, and **SCR 132** have been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled **S 1269**, as amended, **S 1280**, as amended, **S 1301**, as amended, **S 1313**, as amended, **S 1389**, **S 1393**, as amended, **S 1418**, **SCR 127**, **SCR 128**, and **SCR 132** and ordered them transmitted to the House for the signature of the Speaker.

March 20, 2004

The JUDICIARY AND RULES Committee reports that **S 1293**, as amended in the House, **S 1323**, as amended in the House, and **S 1439**, as amended in the House, have been correctly engrossed.

DARRINGTON, Chairman

**S 1293**, as amended in the House, **S 1323**, as amended in the House, and **S 1439**, as amended in the House, were filed for first reading.

March 20, 2004

The FINANCE Committee reports out **H 842**, **H 843**, **H 846**, and **H 847** with the recommendation that they do pass.

CAMERON, Chairman

**H 842**, **H 843**, **H 846**, and **H 847** were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

### Messages from the Governor

March 19, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

**S 1234**, as amended, **S 1240**, **S 1241**, **S 1242**,  
**S 1243**, as amended, **S 1250**, **S 1251**, **S 1263**,  
**S 1274**, **S 1281**, **S 1291**, **S 1299**, **S 1303**, **S 1304**,  
**S 1306**, **S 1318**, **S 1320**, **S 1331**, **S 1344**, **S 1408**,  
**S 1410**, **S 1411**, **S 1412**, **S 1413**, **S 1414**

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

### Reports of Standing Committees

March 20, 2004

The Honorable Robert L. Geddes  
President Pro Tempore  
Idaho State Senate

Sir:

The Senate Education Committee has considered **S 1444**, as amended in the House, as amended in the House, and, by a 7-2 vote, has recommended to the Idaho Senate that the House amendments to **S 1444** be rejected.

Sincerely,  
/s/ Gary J. Schroeder, Chairman  
Senate Education Committee

**S 1444**, as amended in the House, as amended in the House, and the Education Committee report were referred to the Tenth Order of Business, Motions and Resolutions.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Tenth Order of Business.

### Motions and Resolutions

Moved by Senator Schroeder, seconded by Senator Noh, that the Senate adopt the report of the Senate Education Committee recommending that the Senate reject the House amendments to **S 1444**, as amended in the House, as amended in the House.

An amended motion was made by Senator Cameron, seconded by Senator Davis, that the Senate Education Committee report be rejected and that the Senate concur in the House amendments to **S 1444**, as amended in the House, as amended in the House.

The question being, "Shall the amended motion prevail?"

Roll call vote was requested by Senators Cameron, Davis, and Sweet.

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Davis, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, McKenzie, Noble, Pearce, Richardson, Sorensen, Stegner, Sweet, Williams. Total - 22.

NAYS--Andreason, Calabretta, Darrington, Gannon, Kennedy, Marley, Maxand (Burkett), McWilliams, Noh, Schroeder, Stennett, Werk. Total - 12.

Absent and excused--Malepeai. Total - 1.

Paired and voting included in roll call:

AYE - Burtenshaw                      NAY - Darrington

Total - 35.

Whereupon the President Pro Tempore declared that the amended motion to concur in the House amendments had prevailed, and **S 1444**, as amended in the House, as amended in the House, was referred to the Judiciary and Rules Committee for engrossing.

The Senate advanced to the Eleventh Order of Business.

### Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

**S 1323**, as amended in the House, by Education Committee, was read the first time at length and filed for second reading.

**S 1439**, as amended in the House, by State Affairs Committee, was read the first time at length and filed for second reading.

**S 1293**, as amended in the House, by Health and Welfare Committee, was read the first time at length and filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

### Reports of Standing Committees

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 1:20 p.m. until the hour of 2 p.m. of this day.

### RECESS AFTERNOON SESSION

The Senate reconvened at 2 p.m., pursuant to recess, President Pro Tempore Geddes presiding.

Roll call showed all members present except Senators Burtenshaw, Malepeai, and Noble, absent and formally excused by the Chair; and Senators McWilliams, Noh, Pearce, Richardson, Schroeder, and Sweet, absent and excused.

Prior to recess the Senate was at the Sixth Order of Business, Reports of Standing Committees.

March 20, 2004

The JUDICIARY AND RULES Committee reports that **S 1444**, as amended in the House, as amended in the House, has been correctly engrossed.

DARRINGTON, Chairman

**S 1444**, as amended in the House, as amended in the House, was filed for first reading.

March 20, 2004

The STATE AFFAIRS Committee reports out **H 845** with the recommendation that it do pass.

SORENSEN, Chairman

**H 845** was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

#### Messages from the House

Senators McWilliams, Noh, Pearce, Richardson, and Sweet were recorded present at this order of business.

March 20, 2004

Mr. President:

I return herewith Enrolled **S 1269**, as amended, **S 1280**, as amended, **S 1301**, as amended, **S 1313**, as amended, **S 1389**, **S 1393**, as amended, **S 1418**, **SCR 127**, **SCR 128**, and **SCR 132** which have been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1269**, as amended, **S 1280**, as amended, **S 1301**, as amended, **S 1313**, as amended, **S 1389**, **S 1393**, as amended, and **S 1418** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

Enrolled **SCR 127**, **SCR 128**, and **SCR 132** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Secretary of State.

March 20, 2004

Mr. President:

I return herewith **S 1435**, **S 1445**, **S 1317**, as amended, **S 1290**, **S 1441**, **S 1422**, as amended, and **S 1346**, as amended, which have passed the House.

JUKER, Chief Clerk

**S 1435**, **S 1445**, **S 1317**, as amended, **S 1290**, **S 1441**, **S 1422**, as amended, and **S 1346**, as amended, were referred to the Judiciary and Rules Committee for enrolling.

March 20, 2004

Mr. President:

I return herewith Enrolled **S 1443** which has been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1443** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

March 20, 2004

Mr. President:

I transmit herewith Enrolled **H 635**, as amended in the Senate, **H 586**, as amended in the Senate, **H 651**, as amended, as amended in the Senate, and **H 693**, as amended in the Senate, for the signature of the President.

JUKER, Chief Clerk

The President Pro Tempore signed Enrolled **H 635**, as amended in the Senate, **H 586**, as amended in the Senate, **H 651**, as amended, as amended in the Senate, and **H 693**, as amended in the Senate, and ordered them returned to the House.

March 20, 2004

Mr. President:

I transmit herewith Enrolled **H 712**, **H 648**, **H 770**, **H 726**, as amended, **H 499**, as amended, **H 526**, **H 527**, **H 529**, **H 678**, **H 596**, **H 632**, **H 748**, **H 552**, as amended, **H 531**, **H 532**, **H 625**, as amended, **H 691**, **H 692**, **H 682**, **H 487**, **H 579**, as amended, **H 656**, **H 694**, **H 646**, **H 629**, **H 772**, **H 671**, **H 659**, as amended, **H 773**, **H 808**, **H 776**, **H 653**, **H 807**, **H 787**, **H 631**, as amended, **H 815**, **H 636**, as amended, **H 711**, **H 508**, as amended, **H 802**, **H 728**, as amended, **H 778**, **H 752**, as amended, **H 590**, as amended, **H 751**, as amended, **H 771**, **H 803**, **H 812**, **H 515**, **H 811**, **H 756**, **H 836**, **H 806**, **H 816**, as amended, **H 828**, **H 835**, **HCR 50**, and **H 774** for the signature of the President.

JUKER, Chief Clerk

The President Pro Tempore signed Enrolled **H 712**, **H 648**, **H 770**, **H 726**, as amended, **H 499**, as amended, **H 526**, **H 527**, **H 529**, **H 678**, **H 596**, **H 632**, **H 748**, **H 552**, as amended, **H 531**, **H 532**, **H 625**, as amended, **H 691**, **H 692**, **H 682**, **H 487**, **H 579**, as amended, **H 656**, **H 694**, **H 646**, **H 629**, **H 772**, **H 671**, **H 659**, as amended, **H 773**, **H 808**, **H 776**, **H 653**, **H 807**, **H 787**, **H 631**, as amended, **H 815**, **H 636**, as amended, **H 711**, **H 508**, as amended, **H 802**, **H 728**, as amended, **H 778**, **H 752**, as amended, **H 590**, as amended, **H 751**, as amended, **H 771**, **H 803**, **H 812**, **H 515**, **H 811**, **H 756**, **H 836**, **H 806**, **H 816**, as amended, **H 828**, **H 835**, **HCR 50**, and **H 774** and ordered them returned to the House.

Senator Schroeder was recorded present at this order of business.

The Senate advanced to the Eleventh Order of Business.

#### Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

**S 1444**, as amended in the House, as amended in the House, by Education Committee, was read the first time at length and filed for second reading.

The Senate advanced to the Twelfth Order of Business.

### Second Reading of Bills

#### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 842** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 842** was read the second time by title and the third time at length, section by section, and put upon its final passage.

**H 842** was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, Maxand (Burkett), McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Burtenshaw, Malepeai, Noble.  
Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **H 842** passed, title was approved, and the bill ordered returned to the House.

#### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 843** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 843** was read the second time by title and the third time at length, section by section, and put upon its final passage.

**H 843** was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, Maxand (Burkett), McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Burtenshaw, Malepeai, Noble.  
Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **H 843** passed, title was approved, and the bill ordered returned to the House.

#### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 845** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 845** was read the second time by title and the third time at length, section by section, and put upon its final passage.

**H 845** was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Bailey arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, Maxand (Burkett), McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Burtenshaw, Malepeai, Noble.  
Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **H 845** passed, title was approved, and the bill ordered returned to the House.

#### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 846** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 846** was read the second time by title and the third time at length, section by section, and put upon its final passage.

**H 846** was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Bailey arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, Maxand (Burkett), McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Burtenshaw, Malepeai, Noble.  
Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **H 846** passed, title was approved, and the bill ordered returned to the House.

#### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 847** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 847** was read the second time by title and the third time at length, section by section, and put upon its final passage.

**H 847** was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Pearce arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, Maxand (Burkett), McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Burtenshaw, Malepeai, Noble.  
Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **H 847** passed, title was approved, and the bill ordered returned to the House.

#### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1323**, as amended in the House, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **S 1323**, as amended in the House, was read the second time by title and the third time at length, section by section, and put upon its final passage.

**S 1323**, as amended in the House, was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Gannon arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, Maxand (Burkett), McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Burtenshaw, Malepeai, Noble.  
Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **S 1323**, as amended in the House, passed, title was approved, and the bill was referred to the Judiciary and Rules Committee for enrolling.

#### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1439**, as amended in the House, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **S 1439**, as amended in the House, was read the second time by title and the third time at length, section by section, and put upon its final passage.

**S 1439**, as amended in the House, was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, Maxand (Burkett), McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Burtenshaw, Malepeai, Noble. Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **S 1439**, as amended in the House, passed, title was approved, and the bill was referred to the Judiciary and Rules Committee for enrolling.

#### **Suspension of Rules**

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1293**, as amended in the House, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **S 1293**, as amended in the House, was read the second time by title and the third time at length, section by section, and put upon its final passage.

**S 1293**, as amended in the House, was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Stegner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, Maxand (Burkett), McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Burtenshaw, Malepeai, Noble. Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **S 1293**, as amended in the House, passed, title was approved, and the bill was referred to the Judiciary and Rules Committee for enrolling.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Ninth Order of Business.

#### **Messages from the House**

Senator Kennedy requested and received an excused absence for the remainder of this legislative day.

March 20, 2004

Mr. President:

I transmit herewith **H 848** and **H 849** which have passed the House.

JUKER, Chief Clerk

**H 848** and **H 849** were filed for first reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

#### **Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials**

**H 848** and **H 849**, by Ways and Means Committee, were introduced, read the first time at length, and referred to the Resources and Environment Committee.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

#### **Reports of Standing Committees**

March 20, 2004

The JUDICIARY AND RULES Committee reports that **S 1290**, **S 1317**, as amended, **S 1346**, as amended, **S 1422**, as amended, **S 1435**, **S 1441**, and **S 1445** have been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled **S 1290**, **S 1317**, as amended, **S 1346**, as amended, **S 1422**, as amended, **S 1435**, **S 1441**, and **S 1445** and ordered them transmitted to the House for the signature of the Speaker.

March 20, 2004

The JUDICIARY AND RULES Committee reports that **S 1293**, as amended in the House, **S 1323**, as amended in the House, and **S 1439**, as amended in the House, have been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled **1293**, as amended in the House, **S 1323**, as amended in the House, and **S 1439**, as amended in the House, and ordered them transmitted to the House for the signature of the Speaker.

March 20, 2004

The RESOURCES AND ENVIRONMENT Committee reports out **H 848**, **HCR 56**, and **HJM 27** with the recommendation that they do pass.

NOH, Chairman

**H 848** was filed for second reading.

**HCR 56** and **HJM 27** were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Tenth Order of Business.

### Motions and Resolutions

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate consideration of **HCR 56** were suspended.

The President Pro Tempore announced that **HCR 56** was before the Senate for final consideration.

Moved by Senator Noh, seconded by Senator Davis, that **HCR 56** be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, Marley, Maxand (Burkett), McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 31.

NAYS--None.

Absent and excused--Burtenshaw, Kennedy, Malepeai, Noble. Total - 4.

Total - 35.

Whereupon the President Pro Tempore declared **HCR 56** adopted, title was approved, and the resolution ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate consideration of **HJM 27** were suspended.

The President Pro Tempore announced that **HJM 27** was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator Brandt, seconded by Senator Pearce, **HJM 27** was adopted by voice vote, title was approved, and the memorial ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

### Second Reading of Bills

#### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1444**, as amended in the House, as amended in the House, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **S 1444**, as amended in the House, as amended in the House, was read the second time by title and the third time at length, section by section, and put upon its final passage.

**S 1444**, as amended in the House, as amended in the House, was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Davis, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, McKenzie, Pearce, Richardson, Sorensen, Stegner, Sweet, Werk, Williams. Total - 23.

NAYS--Darrington, Gannon, Malepeai, Marley, Maxand (Burkett), McWilliams, Noh, Stennett. Total - 8.

Absent and excused--Burtenshaw, Kennedy, Noble, Schroeder. Total - 4.

Paired and voting included in roll call:

AYE - Williams                      NAY - Malepeai

Total - 35.

Whereupon the President Pro Tempore declared **S 1444**, as amended in the House, as amended in the House, passed, title was approved, and the bill was referred to the Judiciary and Rules Committee for enrolling.

#### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 848** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 848** was read the second time by title and the third time at length, section by section, and put upon its final passage.

**H 848** was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Noh arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, Marley, Maxand (Burkett), McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 31.

NAYS--None.

Absent and excused--Burtenshaw, Kennedy, Malepeai, Noble. Total - 4.

Total - 35.

Whereupon the President Pro Tempore declared **H 848** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Ninth Order of Business.

#### Messages from the House

March 20, 2004

Mr. President:

I transmit herewith Enrolled **H 777**, as amended in the Senate, **H 760**, as amended, as amended in the Senate, **H 761**, as amended, as amended in the Senate, **H 528**, as amended in the Senate, **H 539**, as amended in the Senate, **H 603**, as amended in the Senate, **H 780**, as amended in the Senate, **H 544**, as amended, as amended in the Senate, **H 745**, as amended in the Senate, and **H 755**, as amended in the Senate, for the signature of the President.

JUKER, Chief Clerk

The President Pro Tempore signed Enrolled **H 777**, as amended in the Senate, **H 760**, as amended, as amended in the Senate, **H 761**, as amended, as amended in the Senate, **H 528**, as amended in the Senate, **H 539**, as amended in the Senate, **H 603**, as amended in the Senate, **H 780**, as amended in the Senate, **H 544**, as amended, as amended in the Senate, **H 745**, as amended in the Senate, and **H 755**, as amended in the Senate, and ordered them returned to the House.

March 20, 2004

Mr. President:

I return herewith **S 1347**, **S 1361**, **S 1363**, **S 1351**, as amended, **S 1446**, **S 1417**, **SJM 110**, **S 1322**, and **SCR 134** which have passed the House.

JUKER, Chief Clerk

**S 1347**, **S 1361**, **S 1363**, **S 1351**, as amended, **S 1446**, **S 1417**, **SJM 110**, **S 1322**, and **SCR 134** were referred to the Judiciary and Rules Committee for enrolling.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

#### Miscellaneous Business

On request by Senator Davis, granted by unanimous consent, the President Pro Tempore appointed a committee consisting of Senators Keough, Chairman, and Senators McWilliams and Werk to escort the committee from the House of Representatives, consisting of Representatives Collins, Wills, and Langhorst into the Senate Chamber. The House committee informed the President Pro Tempore and the members of the Senate that the House of Representatives had completed its business and was ready to adjourn *Sine Die*.

The Senate committee was discharged.

On request by Senator Davis, granted by unanimous consent, the President Pro Tempore appointed a committee consisting of Senator Schroeder, Chairman, and Senators Brandt, Compton, and Marley to notify the House of Representatives that the Senate had completed its business and was ready to adjourn *Sine Die*.

The President Pro Tempore excused the committee.

On request by Senator Davis, granted by unanimous consent, the President Pro Tempore appointed a committee consisting of Senator Noh, Chairman, and Senators Sorensen, Ingram, and Calabretta to notify the Governor that the Senate had completed its business and was ready to adjourn *Sine Die*.

The President Pro Tempore excused the committee.

The committee appointed to wait upon the Governor returned and reported that it had delivered the President Pro Tempore's message. The committee conveyed the Governor's message to the President Pro Tempore and the members of the Senate.

The President Pro Tempore thanked and discharged the committee.

The committee appointed to wait upon the House of Representatives returned and reported that it had delivered the President Pro Tempore's message. The committee conveyed the Speaker's message to the President Pro Tempore and the members of the Senate.

The President Pro Tempore thanked and discharged the committee.

On motion by Senator Davis, seconded by Senator Marley, by voice vote the Senate of the Second Regular Session of the Fifty-seventh Legislature of the State of Idaho adjourned *Sine Die* at 6:52 p.m., March 20, 2004.

\*\*\*\*\*



March 22, 2004

Enrolled **S 1290, S 1317**, as amended, **S 1346**, as amended, **S 1422**, as amended, **S 1435, S 1441, S 1445, S 1293**, as amended in the House, **S 1323**, as amended in the House, and **S 1439**, as amended in the House, were returned from the House signed by the Speaker, and delivered to the Office of the Governor at 1:20 p.m., March 22, 2004.

March 22, 2004

Enrolled **S 1232**, as amended, **S 1269**, as amended, **S 1279**, as amended, as amended in the House, **S 1280**, as amended, **S 1283, S 1288, S 1289, S 1292, S 1301**, as amended, **S 1313**, as amended, **S 1350**, as amended, **S 1373**, as amended, **S 1389, S 1391, S 1393**, as amended, **S 1416, S 1418, S 1438, S 1440**, and **S 1443** were delivered to the Office of the Governor at 1:20 p.m., March 22, 2004.

March 22, 2004

**S 1322, S 1347, S 1351**, as amended, **S 1361, S 1363, S 1417, S 1444**, as amended in the House, as amended in the House, and **S 1446** were enrolled, signed by the President, transmitted to the House for the signature of the Speaker, returned to the Senate, and delivered to the Office of the Governor at 1:25 p.m., March 22, 2004.

March 22, 2004

**SCR 134** and **SJM 110** were enrolled, signed by the President, transmitted to the House for the signature of the Speaker, returned to the Senate, and delivered to the Office of the Secretary of State at 1:22 p.m., March 22, 2004.

March 22, 2004

Enrolled **SCR 127, SCR 128**, and **SCR 132** were delivered to the Office of the Secretary of State at 1:22 p.m., March 22, 2004.

March 22, 2004

Enrolled **H 842, H 843, H 845, H 846, H 847, HCR 56, HJM 27**, and **H 848** were received from the House, signed by the President, and returned to the House.

March 23, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and

am transmitting to the Secretary of State the following Senate Bills, to wit:

**S 1232**, as amended, **S 1298**,  
**S 1302, S 1313**, as amended,  
**S 1367, S 1372, S 1393**, as amended,  
**S 1415, S 1417, S 1422**, as amended,  
**S 1423**

Sincerely,  
/s/ Dirk Kempthorne  
Governor

March 23, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

**S 1257, S 1259, S 1280**, as amended, **S 1288, S 1289, S 1290, S 1292, S 1323**, as amended in the House, **S 1345, S 1346**, as amended, **S 1350**, as amended, **S 1351**, as amended, **S 1353, S 1373**, as amended, **S 1391, S 1409, S 1416, S 1418, S 1426, S 1427, S 1438, S 1446**

Sincerely,  
/s/ Dirk Kempthorne  
Governor

March 24, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bill, to wit:

**S 1256, S 1258, S 1262**, as amended, **S 1275, S 1276, S 1282, S 1301**, as amended, **S 1311, S 1371, S 1379, S 1382, S 1394, S 1407, S 1424, S 1435, S 1440**

Sincerely,  
/s/ Dirk Kempthorne  
Governor

March 24, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and  
am transmitting to the Secretary of State the following Senate  
Bill, to wit:

**S 1279**, as amended, as amended in the House

Sincerely,  
/s/ Dirk Kempthorne  
Governor

March 25, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and  
am transmitting to the Secretary of State the following Senate  
Bills, to wit:

**S 1430, S 1431, S 1432, S 1433, S 1434**

Sincerely,  
/s/ Dirk Kempthorne  
Governor

March 26, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and  
am transmitting to the Secretary of State the following Senate  
Bill, to wit:

**S 1439**, as amended in the House

Sincerely,  
/s/ Dirk Kempthorne  
Governor

March 31, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and  
am transmitting to the Secretary of State the following Senate  
Bill, to wit:

**S 1293**, as amended in the House, **S 1322**

Sincerely,  
/s/ Dirk Kempthorne  
Governor

April 1, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and  
am transmitting to the Secretary of State the following Senate  
Bills, to wit:

**S 1260, S 1425, S 1428, S 1443,**  
**S 1444**, as amended in the House, as amended in the House

Sincerely,  
/s/ Dirk Kempthorne  
Governor

April 2, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and  
am transmitting to the Secretary of State the following Senate  
Bills, to wit:

**S 1317**, as amended, **S 1347,**  
**S 1361, S 1363, S 1389,**  
**S 1441, S 1445**

Sincerely,  
/s/ Dirk Kempthorne  
Governor

April 2, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and  
am transmitting to the Secretary of State the following Senate  
Bill, to wit:

## S 1283

April 2, 2004

**Senate Bill 1283** will prohibit smoking in “public places,” a legal definition which has been expanded by this legislation to include restaurants, retail stores, sports or fitness facilities, child care facilities, and public means of mass transportation including vans, trains, taxis, and limousines.

Traditional smoking establishments such as bars and bowling alleys will continue to be exempted under this legislation. The types of establishments where smoking will be allowed has also been expanded by **S 1283** to include retail businesses primarily engaged in the sale of tobacco or tobacco products, smoking rooms in hotels, business areas not otherwise open to the public, and, under certain circumstances, designated employee break rooms. The bill contains a fine not to exceed \$100 for violation and an attendant whistle blower mechanism to protect enforcement.

The primary purpose of this legislation is to avoid the health impacts of secondary tobacco smoke which, pursuant to the legislative findings and intent, causes disease including lung cancer and heart disease in non-smoking adults as well as other potentially serious conditions in children.

There has been much discussion this legislative session about the implications of this legislation on personal freedoms and private property protection if **Senate Bill 1283** were to become law.

First, I do not believe that there is an *absolute* personal right to smoke at any time and in any public place. Some fundamental rights - free speech for example - have some limitations on the time, place, and manner of their exercise. I am signing this bill because it has fashioned a carefully-balanced approach to the needs of businesses which have traditionally catered to smokers and who will continue to provide a reasonable accommodation for that activity with the need for members of the non-smoking public to avoid problems associated with second hand smoke.

Further, I do not believe that this legislation will needlessly impact business. Indeed, many Idaho businesses have, voluntarily and consistent with free market principles, already provided that their facilities be smoke free.

**Senate Bill 1283** maintains the delicate balance between the necessity of government to protect the health of the non-smoking public and children and those businesses that believe that accommodation for smokers is an appropriate part of their economic livelihood.

Based on the above, I have signed **Senate Bill 1283** into law.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I hereby advise you that I have transmitted to the Office of the Secretary of State, without my approval, disapproved and vetoed, the following Senate Bill, to wit:

**S 1269, As Amended**

within the time limited by law, the same having arrived in the Office of the Governor at the hour of 1:20 p.m., March 22, 2004.

This bill is not necessary. Current law already allows the regional public transportation authority and the local governments the necessary authority to acquire, construct, maintain, and operate intra-city light rail systems.

Senate Concurrent Resolution 132, passed this legislative session, authorizes the formation and appointment of a committee to undertake and complete a study of public transportation and related air quality issues. The committee will examine several public transportation issues, including:

- Public transportation links, such as park and ride, rail, transit, commuter ride and air quality services;
- Overlapping and duplicative public transportation services;
- Strategies for methods to coordinate public transportation services; and
- Strategies for joint public and private funding of public transportation services.

Considered in the context of SCR 132, this legislation is premature. Instead, the coordination and funding strategies for public transportation should be thoroughly addressed by the committee formed by the Resolution and any findings, recommendations, and proposed legislation should be considered during the next legislative session.

Additionally, the advice and counsel of other service providers should be sought prior to individual entities making decisions that could impact the ability to establish a total or complete transportation system. **Senate Bill 1269, As Amended**, would combine individual projects in the hope of forming a coordinated greater public transportation system rather than a more thoughtful process implemented in stages.

For these reasons, I hereby withhold my approval from, disapprove, and veto **Senate Bill 1269, As Amended**.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

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**CERTIFICATE**

State of Idaho                                 )  
  )  
Senate Chamber, Boise, Idaho         )

We, JAMES E. RISCH, President of the Senate, and  
JEANNINE WOOD, Secretary of the Senate, do hereby certify  
and attest as follows:

That the daily Senate Journal of the proceedings of  
March 20, 2004, the Sixty-ninth Legislative Day, has been read  
and approved;

And, said Journal contains a full, true, and accurate record  
of all Senate proceedings of said day, including final actions by  
the House of Representatives and the Governor of the State of  
Idaho, as statutorily mandated.

IN WITNESS WHEREOF, we have hereunto set our hand  
this 2nd day of April, 2004.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary